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Docket No.: 03864/000N107-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kenichi Hanamata

Application No.: 10/635,590 Confirmation No.: 1377

Filed: August 5, 2003 Art Unit: 3663

For: CONTROL UNIT FOR A VEHICLE Examiner: R. M. Mancho

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants respectfully request a review of the legal and factual bases for the rejections in the above-identified patent application. Pursuant to the guidelines set forth in the Official Gazette Notice of July 12, 2005 for the new Pre-Appeal Brief Conference Pilot Program, favorable reconsideration of the subject application is respectfully requested in view of the following remarks.

According to the Advisory Action dated December 9, 2005, claims 1, 2, and 4-10 remain rejected under 102(b) as being anticipated by Ishii et al. (U.S. Patent No. 5,552,488). Applicant asserts that the claims distinguish over this reference.

The present invention is directed to a control unit for a vehicle having a self-diagnosis function for self-diagnosing a verification of a reception of a signal concerning a switch based on various vehicle information data. Claim 1 has been amended to state that a function checker, which is connected by connecting means, outputs a predetermined control signal into the control unit when the function checker receives a predetermined signal from the vehicle information data (page 6,

lines 12-26 of the Specification). The predetermined control signal causes the control unit to activate the self-diagnosis function automatically to establish a self-diagnosis mode (page 9, lines 21-18, of the Specification).

Ishii discloses a diagnosis apparatus for a vehicle control system including an electronic control unit (ECU) 51 and an external diagnosing unit 27 which can be connected to the ECU 51 via connector 28, e.g., by a service engineer when the vehicle is being inspected or repaired (Ishii, column 4, lines 52-61). There are two modes of self-diagnosis where one of the modes provides a diagnosis with higher precision (Ishii, column 5, lines 47-50). The operator performs a predetermined operation to the external diagnosing unit 27 so that the normal mode of the ECU 51 changes to the check mode (Ishii, column 5, lines 57-65). Ishii does not disclose that the external diagnosing unit 27 receives any signal from the any vehicle information data before the self-diagnosis mode changes to the check mode.

As asserted in the two filed Responses, Ishii does not disclose or suggest a function checker outputting a predetermined control signal, which is in response to receiving a predetermined control signal from various vehicle information data, and which causes the control unit to activate the self-diagnosis function, as set forth in claim 1. Ishii's ECU 51 receives data from the diagnosing unit 27, such as a command to switch modes of the self-diagnosis program, e.g., a normal mode or a check mode, using a check mode flag CMF (Ishii, column 6, lines 40-47). However, this command does not cause the control unit to activate a self-diagnosis function, as set forth in the claims, but merely switches the self-diagnosis mode. Additionally, as shown in Fig. 3, the data is transmitted from the diagnosing unit 27 to the ECU 51 after the self-diagnosing routine already started, and therefore, the data cannot be used to activate the self-diagnosing routine.

The Examiner responded in the final Office Action by stating that this limitation is not in the claim. Applicant disagrees. Claim 1 recites "said function checker outputting a predetermined control signal ..., wherein said predetermined control signal causes said control unit to activate said self-diagnosis function ..." Thus, this feature is in fact recited in claim 1.

Furthermore, as asserted in the previous Responses, even if one were to construe that Ishii's command to change the self-diagnosis mode serves as a predetermined control signal of the present invention, Ishii's external diagnosing unit 27 does not receive any signal from the vehicle information data when the self-diagnosis mode changes to the check mode. Thus, Ishii does not disclose that the function checker outputs a predetermined control signal into the control unit when the function checker receives a predetermined signal from the various vehicle information data, as set forth in claim 1. Since the Examiner has not responded to this argument.

As also asserted in the previous Responses, Claim 7 is directed to a control system including a control unit with a self-diagnosis function for verifying the reception of two signals from two separate switches. A function checker receives the first signal, and the function checker transmits a pseudo signal of the second signal to the control until when the function checker receives the first signal. The control unit activates the self-diagnosis function to establish a self-diagnosis mode when receiving the pseudo signal.

Ishii does not disclose that the control unit activates the self-diagnosis function for verifying the reception of two separate signals from two separate switches. Ishii's ECU 51 receives data from various switches of the diagnosing unit 27 (Ishii, column 6, lines 32-34), but does not activate the self-diagnosis function to verify the reception of the various signals.

The Examiner responded in the final Office Action by misquoting Applicant's argument, and then referred Applicant to column 5 and 6 and the drawings of Ishii. In misquoting Applicant's argument, the Examiner argued that Applicant asserted that Ishii "does not disclose that the control unit activates the self-diagnosis function." The Examiner left out the words "for verifying the reception of two separate signals from two separate switches," thereby addressing an argument Applicant did not make. Applicant therefore maintains this argument.

Furthermore, as asserted in the Responses, Ishii does not disclose transmitting a pseudo signal of a second signal, which is transmitted from a second switch to a control unit, wherein the pseudo signal is transmitted from a function checker to the control unit when the function checker

receives a first signal transmitted via a first communication line between the control unit and the first switch. The data that is transmitted from Ishii's diagnosing unit 27 to the ECU 51 includes the command to switch modes (Ishii, column 5, line 61, to column 6, line 3). However, if this data is construed as a pseudo signal of a second signal, as recited in claim 7, Ishii does not disclose a corresponding second signal transmitted from a second switch to a control unit. Ishii also does not disclose that this data is transmitted when a function checker receives a first signal transmitted from a first switch to the control unit. The Examiner has not responded to this argument.

In the Advisory Action the Examiner alleges that during the interview Applicant agreed to "amend the claims for further consideration as to whether the claims overcome the 102(b) rejection." However, Applicant's representative does not recall agreeing to amend the claims. It is Applicant's representative's recollection, as confirmed by the notes to the file regarding the interview, that Applicant's representative made assertions as to why the claims in their current form distinguish over the prior art, and the Examiner agreed to consider these assertions after the Response was filed.

For the aforementioned reasons, Ishii fails to teach or suggest all of the features of the present invention as set forth in claims 1 and 7. Claims 2-6 and 8-10 are dependent on claims 1 and 7 and are therefore also patentable for at least the same reasons.

Finally, claims 1, 2, and 4-6 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. In the Advisory Action the Examiner stated that this rejection will be withdrawn.

Applicants respectfully submit that pending claims 1-10 are allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Dated: February 27, 2006

Respectfully submitted,

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